

February 22, 2023

DEVELOPER'S STATEMENT & MITIGATION MONITORING PROGRAM
FOR MORRIS CONDITIONAL USE PERMIT DRC2020-00033

The applicant agrees to incorporate the following measures into the project. These measures become a part of the project description and therefore become a part of the record of action upon which the environmental determination is based. All development activity must occur in strict compliance with the following mitigation measures. These measures shall be perpetual and run with the land. These measures are binding on all successors in interest of the subject property.

Per Public Resources Code Section 21081.6 the following measures also constitute the mitigation monitoring and/or reporting program that will reduce potentially significant impacts to less than significant levels. These measures will become conditions of approval (COAs) should the project be approved. The Lead Agency (County) or other Responsible Agencies, as specified in the following measures, is responsible to verify compliance with these COAs.

Project Description

A request by Joshua and Katherine Morris for a Conditional Use Permit (DRC2020-00033) to allow the development of an approximately 7,200 square feet (SF) single story winery facility that will include a 4,200 SF production area/barrel storage area, a 323 SF tasting area, 213 SF kitchen, restrooms, storage rooms and a 1,200 SF second floor mezzanine area that will include an office, storage areas and 184 SF outdoor patio. The project includes a 2,586 SF subterranean cave for wine storage, a 423 SF members only tasting room, and 177 SF bottle storage area. The winery's initial annual production is anticipated to be approximately 2,700 cases with a maximum of 5,000 cases. The project includes a request to host up to 30 winery special events annually with a maximum of 250 guests (including non-profits). The applicant is requesting to participate in wine industry-events as allowed by the Land Use Ordinance. Events to be held both indoor and outdoor. The applicant is requesting a modification to ordinance Section 22.30.070.D.i(3) to allow outdoor amplified sound beyond 5 p.m. to allow up to 8 p.m., and a modification to the ordinance Section 22.10.090.C.1 limiting the height of the winery building to 45 feet to allow up to 50 feet. The project would result in approximately 2.4 acres of site disturbance on a 32.23-acre parcel, including 9,200 SF of cut and 1,240 SF of fill. The subject property is within the El Pomar-Estrella Subarea of the North County Planning Area.

Expanded Project Description

Special Events and Industry-Wide / Marketing Events

The winery facility intends to continue to participate in activities during Wine Industry Weekends and other marketing activities not defined as special events by the Land Use Ordinance (e.g., non-advertised wine club activities and activities with under 50 attendees).

In addition, the project includes a special events program to allow up to 30 events a year with a maximum of 250 attendees (including non-profits). The number of persons per event is proposed as follows:

- 15 events per year at 150 persons per event
- 10 events per year at 200 persons per event
- 5 events per year at 250 persons per event

Note: The items contained in the boxes labeled "Monitoring" describe the County procedures to be used to ensure compliance with the mitigation measures.

AIR QUALITY

AQ-1. To mitigate fugitive dust emissions related to project construction, the following shall be implemented:

- a. Reduce the amount of the disturbed area where possible;
- b. Use of water trucks or sprinkler systems in sufficient quantities to prevent airborne dust from leaving the site. Increased watering frequency would be required whenever wind speeds exceed 15 mph. Reclaimed (non-potable) water should be used whenever possible;
- c. All dirt stock pile areas should be sprayed daily as needed;
- d. Permanent dust control measures identified in the approved project revegetation and landscape plans should be implemented as soon as possible following completion of any soil disturbing activities;
- e. Exposed ground areas that are planned to be reworked at dates greater than one month after initial grading should be sown with a fast germinating, non-invasive grass seed and watered until vegetation is established;
- f. All disturbed soil areas not subject to revegetation should be stabilized using approved chemical soil binders, jute netting, or other methods approved in advance by the APCD;
- g. All roadways, driveways, sidewalks, etc. to be paved should be completed as soon as possible. In addition, building pads should be laid as soon as possible after grading unless seeding or soil binders are used;
- h. Vehicle speed for all construction vehicles shall not exceed 15 mph on any unpaved surface at the construction site;
- i. All trucks hauling dirt, sand, soil, or other loose materials are to be covered or should maintain at least two feet of freeboard (minimum vertical distance between top of load and top of trailer) in accordance with CVC Section 23114;
- j. Install wheel washers where vehicles enter and exit unpaved roads onto streets, or wash off trucks and equipment leaving the site;
- k. Sweep streets at the end of each day if visible soil material is carried onto adjacent paved roads. Water sweepers with reclaimed water should be used where feasible;
- l. All of these fugitive dust mitigation measures shall be shown on grading and building plans; and
- m. The contractor or builder shall designate a person or persons to monitor the fugitive dust emissions and enhance the implementation of the measures as necessary to minimize dust complaints, reduce visible emissions below 20% opacity, and to prevent transport of dust offsite. Their duties shall include holidays and weekend periods when work may not be in progress. The name and telephone number of such persons shall be provided to the APCD Compliance Division prior to the start of any grading, earthwork or demolition.

- AQ-2.** The required mitigation measures for reducing nitrogen oxides (NOx), reactive organic gases (ROG), and diesel particulate matter (DPM) emissions from construction equipment are listed below:
- a. Maintain all construction equipment in proper tune according to manufacturer's specifications;
 - b. Fuel all off-road and portable diesel powered equipment with ARB certified motor vehicle
 - c. diesel fuel (non-taxed version suitable for use off-road);
 - d. Use diesel construction equipment meeting ARB's Tier 2 certified engines or cleaner off-road heavy-duty diesel engines, and comply with the State off-Road Regulation;
 - e. Use on-road heavy-duty trucks that meet the ARB's 2007 or cleaner certification standard for on-road heavy-duty diesel engines, and comply with the State On-Road Regulation;
 - f. Construction or trucking companies with fleets that do not have engines in their fleet that meet the engine standards identified in the above two measures (e.g. captive or NOx exempt area fleets) may be eligible by proving alternative compliance;
 - g. All on and off-road diesel equipment shall not idle for more than 5 minutes. Signs shall be posted in the designated queuing areas and or job sites to remind drivers and operators of the 5 minute idling limit;
 - h. Diesel idling within 1,000 feet of sensitive receptors is not permitted;
 - i. Staging and queuing areas shall not be located within 1,000 feet of sensitive receptors;
 - j. Electrify equipment when feasible;
 - k. Substitute gasoline-powered in place of diesel-powered equipment, where feasible; and,
 - l. Use alternatively fueled construction equipment on-site where feasible, such as compressed natural gas (CNG), liquefied natural gas (LNG), propane or biodiesel.

Monitoring: Department of Planning and Building shall verify compliance (AQ-1 thru AQ-2) in consultation with the Environmental Coordinator.

BIOLOGICAL RESOURCES

- BIO-1.** Prior to issuance of grading and/or construction permits, the applicant shall submit evidence to the County of San Luis Obispo that states that one or a combination of the following three San Joaquin kit fox compensatory mitigation measures has been implemented:
- a. Provide for the protection in perpetuity, through acquisition of fee or a conservation easement of 2.4 acres (2.4 acres of development multiplied by 1 as a result of an applied 1:1 mitigation ratio) of suitable habitat in the kit fox corridor area (e.g. either on-site or off-site, and provide for a non-wasting endowment to provide for management and monitoring of the property in perpetuity. Lands to be conserved shall be subject to the review and approval of the California Department of Fish and Wildlife and the County. This mitigation alternative (a.) requires that all aspects of this program must be in place before County-permit issuance or initiation of any ground disturbing activities.

- b. Deposit funds into an approved in-lieu fee program, which would provide for the protection in perpetuity of suitable habitat in the kit fox corridor area within San Luis Obispo County, and provide for a non-wasting endowment for management and monitoring of the property in perpetuity. Mitigation alternative (b) above can be completed by providing funds to The Nature Conservancy (TNC) pursuant to the Voluntary Fee-Based Compensatory Mitigation Program (Program). The Program was established in agreement between the CDFW and TNC to preserve San Joaquin kit fox habitat, and to provide a voluntary mitigation alternative to project proponents who must mitigate the impacts of projects in accordance with the California Environmental Quality Act (CEQA). The fee, payable to "The Nature Conservancy," would total: \$6,000 (2.4 x 1 x \$2,500). This fee is calculated based on the current cost-per-unit of \$2500 per acre of mitigation, which is scheduled to be adjusted to address the increasing cost of property in San Luis Obispo County; actual cost may increase depending on the timing of payment. This fee must be paid after the CDFW provides written notification about your mitigation options but prior to County permit issuance and initiation of any ground disturbing activities.
- c. Purchase credits in a CDFW-approved conservation bank, which would provide for the protection in perpetuity of suitable habitat within the kit fox corridor area and provide for a non-wasting endowment for management and monitoring of the property in perpetuity. Mitigation alternative (c) above can be completed by purchasing credits from the Palo Prieto Conservation Bank (see contact information below). The Palo Prieto Conservation Bank was established to preserve San Joaquin kit fox habitat, and to provide a voluntary mitigation alternative to project proponents who must mitigate the impacts of projects in accordance with CEQA. The cost for purchasing credits is payable to the owners of The Palo Prieto Conservation Bank, would total: \$6,000 (2.4 x 1 x \$2,500).

This fee is calculated based on the current cost-per-credit of \$2,500 per acre of mitigation. The fee is established by the conservation bank owner and may change at any time. Actual cost may increase depending on the timing of payment. Purchase of credits must be completed prior to County permit issuance and initiation of any ground disturbing activities.

BIO-2 Prior to issuance of grading and/or construction permits, the applicant shall provide evidence that they have retained a qualified biologist acceptable to the County Division of Environmental and Resource Management. The retained biologist shall perform the following monitoring activities:

- a. Prior to issuance of grading and/or construction permits and within 30 days prior to initiation of site disturbance and/or construction, the biologist shall conduct a pre-activity (i.e. pre-construction) survey for known or potential kit fox dens and submit a letter to the County reporting the date the survey was conducted, the survey protocol, survey results, and what measures were necessary (and completed), as applicable, to address any kit fox activity within the project limits.
- b. The qualified biologist shall conduct weekly site visits during site-disturbance activities (i.e. grading, diking, excavation, stock piling of dirt or gravel, etc.) that proceed longer than 14 days, for the purpose of monitoring compliance with required Mitigation Measures BR-3 through BR11. Site-disturbance activities lasting up to 14 days do not require weekly monitoring by the biologist unless observations of kit fox or their dens are made on-site or the qualified biologist recommends monitoring for some other reason (see BR-2-c3). When

weekly monitoring is required, the biologist shall submit weekly monitoring reports to the County.

- c. Prior to or during project activities, if any observations are made of San Joaquin Kit fox, or any known or potential San Joaquin kit fox dens are discovered within the project limits, the qualified biologist shall re-assess the probability of incidental take (e.g. harm or death) to kit fox. At the time a den is discovered, the qualified biologist shall contact the U.S. Fish and Wildlife Service and the Department for guidance on possible additional kit fox protection measures to implement and whether or not a Federal and/or State incidental take permit is needed. If a potential den is encountered during construction, work shall stop until such time the U.S. Fish and Wildlife Service/Department determine it is appropriate to resume work.

If incidental take of kit fox during project activities is possible, before project activities commence, the applicant must consult with the U.S. Fish and Wildlife Service and the Department (see contact information below). The results of this consultation may require the applicant to obtain a Federal and/or State permit for incidental take during project activities. The applicant should be aware that the presence of kit foxes or known or potential kit fox dens at the project site could result in further delays of project activities.

- d. In addition, the qualified biologist shall implement the following measures:
 1. Within 30 days prior to initiation of site disturbance and/or construction, fenced exclusion zones shall be established around all known and potential kit fox dens. Exclusion zone fencing shall consist of either large flagged stakes connected by rope or cord, or survey laths or wooden stakes prominently flagged with survey ribbon. Each exclusion zone shall be roughly circular in configuration with a radius of the following distance measured outward from the den or burrow entrances:
 - a) Potential kit fox den: 50 feet
 - b) Known or active kit fox den: 100 feet
 - c) Kit fox pupping den: 150 feet
 2. All foot and vehicle traffic, as well as all construction activities, including storage of supplies and equipment, shall remain outside of exclusion zones. Exclusion zones shall be maintained until all project-related disturbances have been terminated, and then shall be removed.

BIO-3 Prior to issuance of grading and/or construction permits, the applicant shall clearly delineate as a note on the project plans, that: "Speed signs of 25 mph (or lower) shall be posted for all construction traffic to minimize the probability of road mortality of the San Joaquin kit fox". Speed limit signs shall be installed on the project site within 30 days prior to initiation of site disturbance and/or construction. In addition, prior to permit issuance and initiation of any ground disturbing activities, conditions BR-3 through BR-10 of the Developer's Statement/Conditions of Approval shall be clearly delineated on project plans.

BIO-4 During the site disturbance and/or construction phase, grading and construction activities after dusk shall be prohibited unless coordinated through the County, during which additional kit fox mitigation measures may be required.

BIO-5 Prior to issuance of grading and/or construction permit and within 30 days prior to initiation of site disturbance and/or construction, all personnel associated with the project shall attend a worker education training program, conducted by a qualified biologist, to avoid

or reduce impacts on sensitive biological resources (i.e. San Joaquin kit fox). At a minimum, as the program relates to the kit fox, the training shall include the kit fox's life history, all mitigation measures specified by the county, as well as any related biological report(s) prepared for the project. The applicant shall notify the County shortly prior to this meeting. A kit fox fact sheet shall also be developed prior to the training program, and distributed at the training program to all contractors, employers and other personnel involved with the construction of the project.

BIO-6 During the site-disturbance and/or construction phase, any pipes, to prevent entrapment of the San Joaquin kit fox, all excavation, steep-walled holes or trenches in excess of two feet in depth shall be covered at the close of each working day by plywood or similar materials, or provided with one or more escape ramps constructed of earth fill or wooden planks. Trenches shall also be inspected for entrapped kit fox each morning prior to onset of field activities and immediately prior to covering with plywood at the end of each working day. Before such holes or trenches are filled, they shall be thoroughly inspected for entrapped kit fox. Any kit fox so discovered shall be allowed to escape before field activities resume, or removed from the trench or hole by a qualified biologist and allowed to escape unimpeded.

BIO-7 During the site-disturbance and/or construction phase, all food-related trash items such as wrappers, cans, bottles, and food scraps generated shall be disposed of in closed containers only and regularly removed from the site. Food items may attract San Joaquin kit foxes onto the project site, consequently exposing such animals to increased risk of injury or mortality. No deliberate feeding of wildlife shall be allowed.

BIO-8 During the site-disturbance and/or construction phase, all food-related trash items such as wrappers, cans, bottles, and food scraps generated shall be disposed of in closed containers only and regularly removed from the site. Food items may attract San Joaquin kit foxes onto the project site, consequently exposing such animals to increased risk of injury or mortality. No deliberate feeding of wildlife shall be allowed.

BIO-9 Prior to, during and after the site-disturbance and/or construction phase, use of pesticides or herbicides shall be in compliance with all local, state and federal regulations. This is necessary to minimize the probability of primary or secondary poisoning of endangered species utilizing adjacent habitats, and the depletion of prey upon which San Joaquin kit foxes depend.

BIO-10 During the site-disturbance and/or construction phase, any contractor or employee that inadvertently kills or injures a San Joaquin kit fox or who finds any such animal either dead, injured, or entrapped shall be required to report the incident immediately to the applicant and County. In the event that any observations are made of injured or dead kit fox, the applicant shall immediately notify the U.S. Fish and Wildlife Service and the Department by telephone (see contact information below). In addition, formal notification shall be provided in writing within three working days of the finding of any such animal(s). Notification shall include the date, time, location and circumstances of the incident. Any threatened or endangered species found dead or injured shall be turned over immediately to the Department for care, analysis, or disposition.

BIO-11 Vegetation removal and initial site disturbance shall be conducted between September 1st and January 31st outside of the nesting season for birds. If vegetation and/or tree removal is planned for the bird nesting season (February 1st to August 31st), then preconstruction nesting bird surveys shall be conducted by a qualified biologist and submitted to the County Planning and Building Department prior to ground disturbance activities to determine if any active nests would be impacted by project construction. If no active nests are found, then no further mitigation shall be required.

If any active nests are found that would be impacted by construction, then the nest sites shall be avoided with the establishment of a non-disturbance buffer zone around active nests as determined by a qualified biologist. During all ground disturbing activities, nest sites shall be avoided and protected with the non-disturbance buffer zone until the adults and young of the year are no longer reliant on the nest site for survival as determined by a qualified biologist.

Monitoring: Department of Planning and Building shall verify compliance (BIO-1 thru BIO-11) in consultation with the Environmental Coordinator.

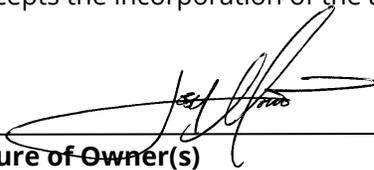
NOISE

- N-1** For the life of the project, events with outdoor amplified music shall comply with the recommendations from the Pardre Associates, Inc. Noise Study, prepared for Ella's Vineyard dated September 2020.
- N-2** For the life of the project, events with outdoor amplified music/sound may occur between the hours of 2 p.m. and 8 p.m.
- N-3** During outdoor events, the applicant shall designate an employee to serve as a noise monitor. For events that include outdoor amplified music/sound, the noise monitor shall monitor noise levels, on an hourly basis, with a sound level meter at the property lines to ensure that the noise levels do not exceed those prescribed in the County Land Use Ordinance. The outdoor amplified music shall not exceed Lmax levels of 65 dB decibels at the property line. The noise monitor shall be available by telephone to respond to any noise complaints and take corrective measures to ensure compliance with the County Land Use Ordinance. The applicant and successors in interest shall provide a telephone number to reach the designated noise monitor to the County and any neighbor who requests it. The telephone number provided shall allow the County and/or neighbor to reach the noise monitor during all events.
- N-4** The applicant shall provide notification of events, through an email or letter, to owners of property within a minimum of 1,000 feet of the exterior boundaries of the proposed site. If a letter is used, it shall be delivered within 30 days prior to but not less than 3 days before each event occurrence. The following information shall be provided:
- a. A complete listing of all scheduled events including dates, times, and number of attendees;
 - b. 24-hour contact information for the on-site operator (cell phone), including e-mail and phone number, to be used to notify the operator of issues with the operation;
 - c. Contact information for County Code Enforcement to be used if members of the public have complaints about the operation;
 - d. Any identified problems shall be responded to and addressed as soon as possible.

As an alternative to providing the annual listing of the events in a letter, a website may be used. If a website is used, notification shall first be provided by mail and contain the website address, the 24-hour local contact information and the approved number of events and attendee numbers. The website shall be maintained and kept current at all times.

Monitoring: Department of Planning and Building shall verify compliance (N-1 thru N-4) in consultation with the Environmental Coordinator.

The applicant understands that any changes made to the project description subsequent to this environmental determination must be reviewed by the Environmental Coordinator and may require a new environmental determination for the project. By signing this agreement, the owner(s) agrees to and accepts the incorporation of the above measures into the proposed project description.

	Joshua Morris	2/22/23
Signature of Owner(s)	Name (Print)	Date

	Katherine Morris	2/22/23
Signature of Owner(s)	Name (Print)	Date